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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,846	03/15/2004	Yoichi Sakamoto	CFA00062US	3113
34904 7590 06/13/2007 CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION 15975 ALTON PARKWAY IRVINE, CA 92618-3731			EXAMINER BRINICH, STEPHEN M	
			ART UNIT 2625	PAPER NUMBER
			MAIL DATE 06/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10801846	3/15/04	SAKAMOTO, YOICHI	CFA00062US

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION  
15975 ALTON PARKWAY  
IRVINE, CA 92618-3731

**EXAMINER**

Stephen M. Brinich

ART UNIT	PAPER
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2625

20070608

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/801,846	SAKAMOTO, YOICHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Stephen M. Brinich	2625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3 and 5-7 is/are rejected.
- 7) ☒ Claim(s) 2,4 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/15/05</u>   | 6) <input type="checkbox"/> Other: ____                           |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 5-6 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 5-6 are drawn to functional descriptive material NOT claimed as residing on a computer readable medium. MPEP 2106.IV.B.1(a) (Functional Descriptive Material) states:

Data structures not claimed as embodied in a computer-readable medium are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer.

Such claimed data structures do not define any structural or functional interrelationships between the data structure and other claimed aspects of the invention which permit the data structure's functionality to be realized.

Claims 5-6, while defining a computer program, does not define a "computer-readable medium" and is thus non-statutory for that reason. A computer program can range from paper on which the program is written, to a program simply contemplated and memorized by a person. The examiner suggests amending the

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claim to embody the program on "computer-readable medium" (e.g. "a computer-readable medium storing a computer program...") in order to make the claim statutory.

In contrast, a claimed computer-readable medium encoded with the data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory." - MPEP 2106.IV.B.1(a)

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless,-

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3, 5, & 7, insofar as claim 5 is understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Mastubara et al (US 6130685).

Re claims 1, 3, 5, & 7, insofar as claim 5 is understood, Matsubara et al discloses (column 8, lines 30-37) a method and means for estimating the order in which image data blocks for a plurality of color planes are to be output to a printer (i.e. cyan before yellow, or yellow before cyan, depending on the

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current printhead direction), and outputting the image data blocks in the estimated order.

Further re claim 5, insofar as it is understood, Matsubara et al discloses (Figure 3) the use of a computer executing a stored program to implement this process.

***Allowable Subject Matter***

5. Claims 2, 4, & 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 6, insofar as it is understood would be allowable if rewritten to overcome the rejection(s) under 35 USC §101 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The art of record does not teach or suggest the recited selective transfer or non-transfer of image blocks based on a transfer-enable signal in conjunction with the recited estimating of the order in which image data blocks for a plurality of color planes are to be output to a printer and outputting the image data blocks in the estimated order.

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**Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Turnbull et al, Odagiri et al, and Imamura et al disclose examples of sequential printing of colors.

9. Any inquiry concerning the contents of this communication or earlier communications from the examiner should be directed to Stephen M. Brinich at 571-272-7430.

Any inquiry relating to the status of this application or proceeding or any inquiry of a general nature concerning application processing should be directed to the Tech Center 2600 Customer Service center at 571-272-2600 or to the USPTO Contact Center at 800-786-9199 or 571-272-1000.

The examiner can normally be reached on weekdays 8:00-5:30, alternate Fridays off.

The examiner's unit designation has been changed from "Art Unit 2624" to "Technology Division 2625" (as of March 20, 2006).

If attempts to contact the examiner and the Customer Service Center are unsuccessful, supervisor David Moore can be contacted at 571-272-7437.

Faxes pertaining to this application should be directed to the Tech Center 2600 official fax number, which is 571-273-8300 (as of July 15, 2005).

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Hand-carried correspondence may be delivered to the  
Customer Service Window, located at the Randolph Building, 401  
Dulany Street, Alexandria, VA 22314.

  
Stephen M Brinich

Examiner

Technology Division 2625

smb

June 11, 2007